

BEFORE THE  
**Federal Communications Commission**

WASHINGTON, D.C.

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

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In the Matter of	)	
	)	GN Docket No. 93-252
Implementation of Sections 3(n)	)	
and 332 of the Communications	)	PR File Nos. 94-SP1
Act	)	94-SP2
	)	94-SP5
Regulatory Treatment of Mobile	)	94-SP7
Services	)	94-SP8

COMMENTS OF AMSC SUBSIDIARY CORPORATION  
IN RESPONSE TO VARIOUS STATE PETITIONS  
TO REGULATE RATES OF CMRS PROVIDERS

AMSC Subsidiary Corporation ("AMSC"), the licensee of the United States Mobile Satellite Service ("MSS") system, hereby submits its comments in response to the petitions filed by various states seeking authority to regulate the rates of providers of Commercial Mobile Radio Service ("CMRS").<sup>1/</sup> AMSC urges the Commission to continue to preempt state regulation of MSS rates.

The Commission has always broadly preempted state regulation of MSS. In the Second Report and Order in Gen. Docket No. 84-1234, the Commission preempted state regulation of MSS technical

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<sup>1/</sup> When the Commission established the CMRS category, AMSC and potentially other MSS providers were included. 9 FCC Rcd 1411, 1457-58 (1994).

The following states submitted petitions to regulate the rates of all CMRS providers: Arizona, Hawaii, Louisiana, Ohio, and Wyoming. Three other states (California, Connecticut, and New York) submitted petitions seeking only to regulate the rates of cellular service providers. These cellular-only petitions are not relevant to AMSC's comments.

standards, entry requirements and ratemaking with respect to MSS space segment. 9 FCC Rcd 1411, para. 40. The Commission found that it was premature to make a preemption determination with respect to MSS ground segment until service was implemented. Id., para. 41.

The Omnibus Budget Reconciliation Act of 1993 provides for preemption of state rate and entry regulation of all CMRS providers and requires states that seek to regulate CMRS providers to make a showing to the Commission. In implementing the statute, the Commission found that a petitioning state must submit evidence to justify its showing and bear the burden of proof. Second Report and Order in GN Docket No. 93-252, para. 251 (1994).

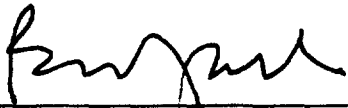
The petitions at issue here seek broad authority to regulate apparently all CMRS providers, regardless of whether those providers are currently offering service, and without making any specific showing with respect to new services such as MSS. The petition of the State of Hawaii Public Utility Commission is typical; its petition requests broad authority "to extend its rate regulation" of CMRS in the state. The state's current regulation is limited, however, to five cellular companies and three radio common carriers, and the state's entire case for continued regulation is built on evidence regarding these carriers.

AMSC respectfully urges the Commission to continue to preempt state regulation of MSS. The circumstances are the same as they were when the Commission initially decided to preempt

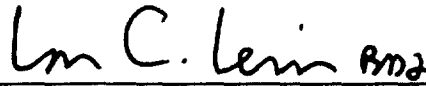
state regulation of MSS. The states cannot regulate the provision of MSS space segment and any attempts to regulate MSS ground segment are premature. The petitions at issue here, to the extent that they may be seen as requesting authority to regulate MSS, clearly do not meet their burden of showing the need for such regulation. The Commission must receive such a showing before it may consider a new service such as MSS to be subject to state regulation.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I, Cynthia L. Smith, a secretary in the law firm of Fisher Wayland Cooper Leader & Zaragoza L.L.P. do hereby certify that on this 19th day of September 1994, a copy of the foregoing "Comments of AMSC Subsidiary Corporation In Response to Various State Petitions to Regulate Rates of CMRS Providers" was sent by U.S. first class mail, postage prepaid to:

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